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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 200464104

ROMEL A. POSADA, P.T.  
71 Via Cartaya  
San Clemente, CA 92673

**A C C U S A T I O N**

Physical Therapist License No. PT 18668

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about November 12, 1992, the Physical Therapy Board of California issued Physical Therapist License No. PT 18668 to ROMEL A. POSADA, P.T. (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:  
“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2660 of the Code states, in pertinent part:  
“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

“...  
“(h) Gross negligence in his or her practice as a physical therapist or physical therapy assistant.

“(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

“...”

6. Section 2234 of the Code states, in pertinent part:  
“The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to the other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“...  
“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed

1 by a separate and distinct departure from the applicable standard of care shall  
2 constitute repeated negligent acts.

3 (1) An initial negligent diagnosis followed by an act or omission  
4 medically appropriate for that negligent diagnosis of the patient shall constitute a  
5 single negligent act.

6 (2) When the standard of care requires a change in the diagnosis,  
7 act, or omission that constitutes the negligent act described in paragraph (1),  
8 including, but not limited to, a reevaluation of the diagnosis or a change in  
9 treatment, and the licensee's conduct departs from the applicable standard of care,  
10 each departure constitutes a separate and distinct breach of the standard of care.

11 "..."

12 7. Section 2266 of the Code provides states:

13 "The failure of a physician and surgeon to maintain adequate and accurate records  
14 relating to the provision of services to their patients constitutes unprofessional conduct."

15 8. California Code of Regulations, title 16, section 1399.20, states, in  
16 pertinent part:

17 For the purposes of denial, suspension or revocation of a license, pursuant to  
18 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
19 considered to be substantially related to the qualifications, functions or duties of a person  
20 holding a license under the Physical Therapy Practice Act if to a substantial degree it  
21 evidences present or potential unfitness of a person to perform the functions authorized  
22 by the license or approval in a manner consistent with the public health, safety or welfare.  
23 Such crimes or acts shall include but not be limited to the following:

24 "(a) Violating or attempting to violate, directly or indirectly, or  
25 assisting in or abetting the violation of, or conspiring to violate any provision or  
26 term of the Physical Therapy Practice Act. . . ."

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1 COST RECOVERY

2 9. Section 2661.5 of the Code states, in pertinent part:

3 “In any order issued in resolution of a disciplinary proceeding before the  
4 board, the board may request the administrative law judge to direct any licensee  
5 found guilty of unprofessional conduct to pay to the board a sum not to exceed the  
6 actual and reasonable costs of the investigation and prosecution of the case.”

7 FIRST CAUSE FOR DISCIPLINE

8 **(Gross Negligence)**

9 10. Respondent has subjected his Physical Therapist License No. PT 18668 to  
10 disciplinary action under section 2660, as defined by sections 2660, subdivision (h), and 2660,  
11 subdivision (i), of the Code, in that he committed gross negligence in his care and treatment of  
12 patient Patient A.H., as more particularly alleged hereinafter:

13 (a) Patient A.H. was referred by her primary physician, Dr. H., for  
14 physical therapy at Romel Posada Physical Therapy with a diagnosis of L5-S1  
15 disc bulge, right lower extremity radiculopathy and sacralitis.

16 (b) On or about February 4, 2003, Respondent performed an initial  
17 physical therapy evaluation. As part of this initial session, Respondent provided  
18 therapy treatment to patient A.H. consisting of Myofascial Release, soft tissue  
19 mobilization, joint mobilizations and active exercises for the lower back. Patient  
20 A.H. had a good response to this visit which reduced her pain by 20% and less  
21 radicular symptoms.

22 (c) On or about March 3, 4, 7, 11, 19, 25, 28, and 31, 2003,  
23 Respondent treated patient A.H. with additional physical therapy treatments. The  
24 therapy treatments consisted of intermittent pelvic traction, joint and soft tissue  
25 mobilization, active exercises for the trunk and lower back, and stabilization  
26 exercises. Patient A.H. also wore a back brace when not in physical therapy.  
27 Respondent documented that Patient A.H. reported less pain during treatments of  
28 March 3, 4, 7, 11, and 19.

1 (d) On or about March 25, 2003, at patient A.H.'s treatment session,  
2 Respondent added 17 pound weights to her exercise regimen requesting she use  
3 this weight while performing bridges. Although, patient A.H. had routinely  
4 performed bridges as one of her exercises, she had never used weight while  
5 performing them. After performing the bridges exercise, Respondent instructed  
6 patient A.H. to do a new exercise of squats having her use 17 pound weights  
7 while performing the squats. At the direction of Respondent, patient A.H.  
8 performed a total of 100 squats (2 sets of 50). Respondent documented that  
9 patient A.H.'s pain during this session decreased to zero. Prior to this session,  
10 there had been no use of weights or resistance as part of patient A.H.'s exercise  
11 regime.

12 (e) At patient A.H.'s next therapy session on or about March 28, 2003,  
13 she complained to Respondent of bilateral leg pain which started shortly after the  
14 squats with 17 pound weight during her March 25 visit and worsened after dinner  
15 that evening. Respondent treated patient A.H. with modalities of interferential  
16 electrical stimulation and cold packs on March 28 in an effort to address the new  
17 pain complaints and did not have her perform any exercises.

18 (f) On or about March 31, 2003, patient A.H. was seen again by  
19 Respondent at which time she reported feeling 50% strength. During this  
20 treatment session, pelvic traction, joint mobilizations and exercises were again  
21 performed by patient A.H. This was patient A.H.'s last physical therapy  
22 appointment. There was no discharge summary documented or any indication as  
23 to why therapy was terminated.

24 (g) On or about May 16, 2003, patient A.H. had another MRI which  
25 showed significant increase in size of disc herniations when compared to the MRI  
26 results of January 24, 2003.

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(h) On or about December 22, 2003, Patient A.H. underwent microsurgery for right L5-S1 discectomy with bilateral L5-S1 decompression.

(i) Respondent committed gross negligence in his care and treatment of patient A.H., which included, but was not limited to, the following:

(1) Respondent abruptly increased from no resistance to 17 pounds in one session for the bridging exercise and added a new exercise, squats, with an extreme number of repetitions with 17 pound weights; and

(2) Respondent failed to notify the referring physician, Dr. H. of patient A.H.'s complaints and increased symptoms with leg weakness following the therapy session on March 25, 2003, and continued to treat her for two more sessions.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Repeated Negligent Acts)**

11. Respondent has further subjected his Physical Therapist License No. PT 18668 to disciplinary action under section 2660, as defined by sections 2660, subdivision (i), and 2234, subdivision (c), of the Code, in that he has committed repeated negligent acts in his care and treatment of patient A.H., as more particularly alleged in paragraph 10, above, which is hereby incorporated by reference and realleged as if fully set forth hereinafter.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure To Maintain Adequate And Accurate Medical Records)**

3 12. Respondent has further subjected his Physical Therapist License  
4 No. PT 18668 to disciplinary action under section 2660, as defined by sections 2660, subdivision  
5 (i), and 2266 of the Code, in that he failed to maintain adequate and accurate medical records in  
6 his care and treatment of patient A.H., as more particularly alleged hereinafter:

7 (a) Paragraph 10, above, is hereby incorporated by reference and realleged as  
8 if fully set forth herein; and

9 (b) Respondent failed to complete a discharge summary explaining why  
10 therapy was terminated.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

- 1. Revoking or suspending Physical Therapist License No. PT 18668, issued to ROMEL A. POSADA, P.T.;
- 2. Ordering Romel A. Posada, P.T. to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.3; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: June 5, 2007

Original Signed By:  
STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant